

Department of Justice

§ 97.20

a transportation employee. The credentials must have a photograph of the employee that is at least one inch square, a printed personal description of the employee including the employee's name, the signature of the employee, and date of issuance; and

(2) The employee must display proper identification credentials on his or her uniform and ensure that the identification is visible at all times during the transportation of violent prisoners.

§ 97.16 Clothing requirements for transported violent prisoners.

Companies covered under this part must ensure that all violent prisoners they transport are clothed in brightly colored clothing that clearly identifies them as violent prisoners, unless security or other specific considerations make such a requirement inappropriate.

§ 97.17 Mandatory restraints to be used while transporting violent prisoners.

Companies covered under this part must, at a minimum, require that violent prisoners be transported wearing handcuffs, leg irons, and waist chains unless the use of all three restraints would create a serious health risk to the prisoner, or extenuating circumstances (such as pregnancy or physical disability) make the use of all three restraints impracticable.

§ 97.18 Notification of local law enforcement prior to scheduled stops.

When transporting violent prisoners, private prisoner transport companies are required to notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction. For the purposes of this part, a scheduled stop is defined as a predetermined stop at a State, local, or private correctional facility for the purpose of loading or unloading prisoners or using such facilities for overnight, meal, or restroom breaks. Scheduled stops do not include routine fuel stops or emergency stops.

§ 97.19 Immediate notification of local law enforcement in the event of an escape.

Private prisoner transport companies must be sufficiently equipped to provide immediate notification to law enforcement in the event of a prisoner escape. Law enforcement officials must receive notification no later than 15 minutes after an escape is detected unless the company can demonstrate that extenuating circumstances necessitated a longer delay. In the event of the escape of a violent prisoner, a private prisoner transport company must:

(a) Ensure the safety and security of the remaining prisoners;

(b) Provide notification within 15 minutes to the appropriate State and local law enforcement officials;

(c) Provide notification as soon as practicable to the governmental entity or the privately run incarceration facility that contracted with the transport company; and

(d) Provide complete descriptions of the escapee and the circumstances surrounding the escape to State and local law enforcement officials if needed.

§ 97.20 Standards to ensure the safety of violent prisoners during transport.

Companies covered under this section must comply with applicable State and federal laws that govern the safety of violent prisoners during transport. In addition, companies covered under this section are to ensure that:

(a) Protective measures are in place to ensure that all vehicles are safe and well-maintained;

(b) Vehicles are equipped with efficient communications systems that are capable of immediately notifying State and local law enforcement officials in the event of a prisoner escape;

(c) Policies, practices, and procedures are in effect to ensure the health and physical safety of the prisoners during transport, including a first-aid kit and employees who are qualified to dispense medications and administer CPR and emergency first-aid;

(d) Policies, practices, and procedures are in effect to prohibit the mistreatment of prisoners, including prohibitions against covering a prisoner's

§ 97.22

mouth with tape, the use of excessive force, and sexual misconduct;

(e) Policies, practices, and procedures are in effect to ensure that juvenile prisoners are separated from adult prisoners during transportation, where practicable;

(f) Policies, practices, and procedures are in effect to ensure that female prisoners are separated from male prisoners during transportation, where practicable;

(g) Policies, practices, and procedures are in effect to ensure that female guards are on duty to supervise the transportation of female violent prisoners, where practicable;

(h) Staff are well trained in the handling and restraint of prisoners, including the proper use of firearms and other restraint devices, and have received specialized training in the area of sexual harassment; and

(i) Private transport companies are responsible for taking reasonable measures to insure the well being of the prisoners in their custody including, but not limited to, necessary stops for restroom use and meals, proper heating and ventilation of the transport vehicle, climate-appropriate uniforms, and prohibitions on the use of tobacco, in any form, in the transport vehicle.

§ 97.22 No pre-emption of federal, State, or local laws or regulations.

The regulations in this part implement the Act and do not pre-empt any applicable federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. All federal laws and regulations governing interstate commerce will continue to apply to private prisoner transport companies including, but not limited to: federal laws regulating the possession of weapons, Federal Aviation Administration or Transportation Security Administration rules and regulations governing travel on commercial aircraft, and all applicable federal, State, or local motor carrier regulations. The regulations in this part in no way pre-empt, displace, or affect the authority of States, local governments,

28 CFR Ch. I (7–1–05 Edition)

or other federal agencies to address these issues.

§ 97.24 No civil defense created.

The regulations in this part on private prisoner transport companies are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Compliance with the regulations in this part is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by the regulations in this part will remain subject to the standards of care that are imposed by constitutional, statutory, and common law upon their activities (or other activities of a similarly hazardous nature).

§ 97.30 Enforcement.

Any person who is found in violation of the regulations in this part will:

(a) Be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation;

(b) Be liable to the United States for the costs of prosecution; and

(c) Make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, that expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of the regulations in this part promulgated pursuant to the Act.

PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994

Sec.

- 100.9 General.
- 100.10 Definitions.
- 100.11 Allowable costs.
- 100.12 Reasonable costs.
- 100.13 Directly assignable costs.
- 100.14 Directly allocable costs.
- 100.15 Disallowed costs.
- 100.16 Cost estimate submission.
- 100.17 Request for payment.
- 100.18 Audit.
- 100.19 Adjustments to agreement estimate.